

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CURRENT, INC.,</p> <p>v.</p> <p>Respondent:</p> <p>EI PASO COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Thomas L. Caradonna, Esq. Lewis, Rice & Fingersh, L.C.</p> <p>Address: 500 North Broadway, Suite 2000 St. Louis, Missouri 63102-2147</p> <p>Phone Number: (314) 444-7600</p> <p>Attorney Reg. No.:</p> <p>Co-Counsel:</p> <p>Name: Kenneth S. Kramer, Esq.</p> <p>Address: 370 – 17th Street, Suite 2600 Denver, Colorado 80202</p> <p>Phone Number: (303) 825-0800</p>	<p>Docket Number: 37715</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 11, 2001 and August 1, 2001, Karen E. Hart, Mark R. Linné, and Debra A. Baumbach presiding. Petitioner was represented by Thomas L. Caradonna, Esq. Respondent was represented by John Franklin, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

PERSONAL PROPERTY
(El Paso County Schedule No. 61,777,0000)

Petitioner is protesting the 2000 actual value of the subject property business personal property located at 1005 East Woodman Road and 1025 East Woodman Road in Colorado Springs, Colorado.

ISSUES:

Petitioner:

Petitioner contends that appropriate consideration was given to all three approaches to value. The market approach was found to be the most accurate approach utilizing the cost approach for additional support. The Respondent primarily relied on the cost approach.

Respondent:

Respondent contends that all three approaches to value were considered. The cost approach was considered to be the most accurate approach to value for the subject based on provided personal property declarations. The Division of Property Taxation guidelines were followed and are binding on all Colorado Assessors.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Leslie H. Miles, Jr., ASA, CEA of MB Valuation Services, Inc., presented the following indicators of value, based on the market approach:

1005 East Woodman Road	\$1,234,209.00
<u>1025 East Woodman Road</u>	<u>\$4,354,026.00</u>
Total Value	\$5,588,235.00

2. Mr. Miles testified that he has over 25 years of experience in valuing machinery and equipment. He personally inspected each and every item of personal property at the subject property locations. The property consists of packaging equipment, envelope machines, stamp-making equipment, collators, mailing equipment, office furniture, telephone and computer equipment, etc.

3. Mr. Miles testified that an itemized listing of every item is performed. The description, characteristics, condition and any manufacturer's model and serial numbers are described. The listing is prepared by dictation, items are marked, and the information is transferred for transcription. The information is placed into a database and then sorted by category. The system is proprietary, and it automatically places the information into similar categories. Condition ratings are given, an average condition is shown as (C) in the report; each code represents a specific condition. After the listing is complete, the analysis and conclusions are made.

4. Mr. Miles testified as to the importance of identifying the manufacturer's model and serial numbers. The manufacture's name can have an impact on the overall value of the equipment, and it provides you the ability to get replacement costs new for the cost approach. Serial numbers can identify the condition, capacity, and age.

5. Mr. Miles testified that two people spent five days each, referred to as ten man-days, on site. An additional day was spent for review and cross checking.

6. Mr. Miles testified that he considered all three approaches to value; however, relied on the market approach for all the equipment. The cost approach was actually calculated for 30 different items as added support for equipment with limited market data. He further explained the methodology utilized in each approach to value, citing obsolescence factors that must be considered in rendering a fair market value. Appropriate adjustments were made to ensure that the value concluded for each individual item was most reflective of the actual value.

7. He further explained the concept of actual value; the value that is obtained after consideration of the cost, market, and income approaches. It is an objective value determined from transactions between willing buyers and willing sellers. He valued each individual item and an appraisal report was performed. The appraisal report itemized each piece of property noting the location, condition, quantity, equipment description, the valuation approach used, and the concluded value.

8. Mr. Miles testified that the highest and best use was considered on each item. The concept of highest and best use is the consideration of the use of the property that would produce the highest return. Especially in personal property, the purpose for which the property is designed is examined.

9. Mr. Miles testified to the data sources he used to research the items of comparable properties. The MB DataBase was utilized, which is made up of books, public sales data, and database information obtained from calls gathered from dealers and manufactures. The primary focus of several staff members is to update and verify data for the MB DataBase. Other outside data sources are also used, such as The Book, Orion, and Green Guide. Other information comes from dealers, appraisals, and public sales, etc.

10. Mr. Miles testified that information obtained from the telephone calls is used to look for the demographics of the items; you want to know how much equipment is out in the market place and what kind of demand there is. Any obsolescence factors can be gathered as well. The calls also help ensure the reliability of the publications that are used.

11. Under cross-examination, Mr. Miles testified he has appraised many properties in Colorado and has preformed three ad valorem appraisals in 2000. He is not familiar with the Assessors Reference Library; however, he has some knowledge of percent good tables.

12. Regarding the methodology used to crosscheck the market with the cost approach, Mr. Miles testified that the replacement cost of the item was determined from the manufacturer or other people who would be familiar with the item. They were asked what it would take to replace it in today's technology. Depreciation was then applied using age/life analysis, economic and physical depreciation.

13. Items with a low marketability were crosschecked with the cost approach. The cost approach will usually result in a higher indicated value than in the market approach. Information concerning the sales of equipment is not usually public record and difficult to obtain. Sales usually range from 10% to 15% below the asking price. The information regarding the cost was derived from asking prices and not percent good tables. To his knowledge, most Assessor's look at asking prices when they try to verify their percent good tables.

14. Mr. Miles further testified under cross-examination that the majority of items in his appraisal report were based on actual sales. The majority of items in the report were mainly desks, computers, and office furniture. Most of these items can be found anywhere, and there are many studies indicating enough data to support a reasonable value. Percentage guidelines are used for location differences. Adjustments would have to be made for any differences that the market might indicate. The database used for information regarding the sales and item information was not specific to Colorado. Information regarding the Colorado market was obtained from the Internet and telephone calls.

15. Mr. Miles testified that the subject property was valued as of January 1, 2000; the sales were not adjusted to the June 30, 1999 value. He spent one day inspecting the subject property and was able to inspect most of the items.

16. Mr. Miles testified that sales usually do not occur on the exact effective date of the study. The main objective is to try to establish a trend of value over a particular point in time. There may be sales prior to and after the effective date. You do make adjustments to those sales as to the effective date. In most cases, these types of values can remain stable for years. Where there are no sales available, asking prices are considered. Asking prices set the upper limit of value.

17. Under redirect, Mr. Miles testified that all the items in his report were valued on the market approach and 30 items were crosschecked with the cost approach. On items that marketability was low, operating costs were too high, and the cost to cure was high, the cost approach was used to support the market value. Auction sales are monitored on site and the condition is observed and noted. Sometimes auction sales bring market-type values and other times they are bargain sales.

18. Upon questions from the Board, Mr. Miles testified that he and other staff members calculated the adjustments in the report. There were no items that were valued solely on the cost approach and there were numerous sales to support the market approach. There are many more items that have asking prices available. Most equipment has generally the same value no matter where it is located. The values derived for replacement cost new are calculated for delivery in Colorado. For the subject property, Mr. Miles cannot think of any item that would sell for more than the asking price. He cannot recall any specific pieces of Petitioner's equipment that would have had a higher value on June 30, 1999 than on January 1, 2000. The majority of the equipment is older, and older equipment would not tend to change value within the six-month period.

19. Petitioner is requesting a 2000 actual value for the subject property as follows:

1005 East Woodman Road	\$1,234,209.00
1025 East Woodman Road	\$4,354,026.00
Total Value	\$5,588,235.00

20. Respondent's witness, Mr. Clarence Jenkins, an Appraiser with the El Paso County Assessor's Office, presented the following indicators of value:

Cost:	\$10,308,436.00
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21. Mr. Jenkins testified that he has been familiar with the subject property for approximately 10 years.

22. Mr. Jenkins testified that he valued the subject property using the guidelines set forth in the Assessors Reference Library, (ARL), Volume 5. All three value approaches were considered in the valuation process. Information for the income approach was difficult to obtain; no one is ready to provide that type of information to the Assessor. The market approach was considered by attempting to look at what taxpayers are reporting for their assets. Personal knowledge of the market is used when working on declarations for market trends. The cost approach was most relied on for the subject property valuation.

23. Mr. Jenkins testified that Deluxe Corporation purchased Current in 1995. Prior to the sale, the personal property declarations were fully itemized and filed on a regular basis. The new company chose to file in bulk figures. He contacted the comptroller of Deluxe Corporation and expressed concerns regarding the accuracy of the subject property listings if reported in bulk. He was informed that they were not going to submit itemized listings.

24. Mr. Jenkins explained his procedures in valuing the subject property according to the limited information he received from Petitioner and the required calculations from the ARL procedures. He testified that he was concerned that there may be assets that are no longer located at a company, but are still being reported. However, it is difficult to ascertain whether this might be true if the property is reported in bulk.

25. Mr. Jenkins testified that he valued the property using the cost approach, but also indicated that he uses the market because he tries to examine the depreciated values versus the purchase price. As an example, he testified that he compared some of the property reported in Mr. Miles' report with his depreciated costs and found some of them to be similar.

26. Mr. Jenkins testified that it is frustrating to try to handle the Petitioner's account accurately when he does not have an itemized property listing. He was surprised to receive an appraisal for this hearing. He attempted to match items in the report to items on his listing. There were items such as signage, an art vault, and forklift batteries that he could not identify in the report. Some of the assets had large discrepancies in market value versus the reported costs, such as the telephone system.

27. Mr. Jenkins testified that, according to the ARL, he is to use sales, not asking prices, when using the market approach. He agrees that it is difficult to get sale prices, even more so for him than for Mr. Miles.

28. Mr. Jenkins testified that he was able to identify four items from Mr. Miles' appraisal that were possible matches to his property listing; some of the values were higher, some were lower. He explained that his cost approach value included sales and use tax, freight, and installation cost. This would tend to make his values higher than the taxpayer's market approach value, in most cases.

29. Mr. Jenkins felt that if Petitioner had reported equipment to him that needed to be removed or reduced in value, he would have made the changes and there would have been no need for this hearing.

30. Under cross-examination, Mr. Jenkins testified that he performed a mass appraisal for Petitioner's property, generally based on the ARL. He did make some changes regarding testing equipment and anything else he was aware was incorrect. He did not independently appraise the property. He did not inspect the property after the original protest was filed, and has not prepared his own itemized list. He did not make any item-for-item independent determination of what it would cost to replace any of the property new as of January 1, 2000; he relied on Petitioner's reported bulk values. He agreed that going to the market to determine individual selling prices would give the best indicator of market value. However, he feels that Petitioner has said he is not welcome to do a field audit of their property until they are ready. He did not test Mr. Miles' analysis.

31. Upon questioning from the Board, Mr. Jenkins testified that he believes both his and Mr. Miles' values for the phone system are accurate according to each approach. The difference in value is likely the purchasing of the equipment only versus the total installed cost.

32. After due diligence in attempting to render a decision in this matter, the Board determined that additional information was needed before a conclusion could be reached by the Board. Therefore, an additional hearing was conducted on August 1, 2001.

33. Petitioner's witness, Mr. Leslie H. Miles, was recalled and explained the methodology he used to calculate the cost approach value for the 30 items that were valued as such in support of the market value. He testified that these items were chosen based mostly on their equipment type. Random cost analysis is done for various types of properties in order to test their database accuracy and to see if the market conclusion is reasonable.

34. Respondent's witness, Mr., Clarence Jenkins, was recalled and testified that he had calculated cost values for 20 of the 30 items valued by Mr. Miles via the cost approach, based on Petitioner's submitted original installed costs as supplied per the Board's request. Original installed costs were not reported for the remaining ten items. The cost calculations were mixed, with some higher and some lower than Mr. Miles' market value per item. Mr. Jenkins expressed concerns with using the market approach if it resulted in a higher value than the cost approach. He believes that the cost approach establishes the maximum value of property, according to state law.

35. Petitioner's witness, Mr. Miles, testified that original installed costs could not be located for the remaining ten items.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2000. Petitioner's witness, Mr. Miles, presented a well-organized appraisal report with a detailed personal property listing.

2. Respondent relied on reported information from Petitioner and rightfully expected the supplied information to be accurate. Respondent even contacted Petitioner and expressed concerns regarding the accuracy of the reported information when supplied in bulk figures versus detailed listings. The Board recognizes that Mr. Jenkins wished to audit Petitioner's property but was not allowed to do so by Petitioner. However, since Mr. Jenkins could not conduct a physical inspection of the property, he could not testify as to whether the information he relied upon was, in fact, accurate. Mr. Miles' asset listing was the result of a physical inspection, and the Board finds that his asset listing as presented at this hearing is more complete than the information previously supplied to Respondent.

3. For this case, the assessment date is January 1, 2000, and the property listing should include all personal property that was in place as of that date.

4. Although Petitioner's inspection was not conducted until April of 2000, Mr. Miles' testimony was that the inventory listing was correlated to January 1, 2000, by identifying any equipment that was purchased or disposed of after the assessment date. The Board was convinced that Mr. Miles' asset listing accurately reflected what items were in place as of the assessment date.

5. Colorado law requires the consideration of all three approaches to value for the establishment of actual value. Both parties testified that they considered all three approaches to value, and both parties agreed that the income approach would not be the best indicator of value for the subject property. Petitioner's witness, Mr. Miles, gave all weight to the market approach, with 30 items crosschecked according to the cost approach. Respondent's witness, Mr. Jenkins, tended to rely solely on the cost approach, testifying that he was supplied an insufficient amount of data to determine an accurate market approach. The Board was most persuaded by Petitioner's market approach.

6. The Board finds that the market approach is an appropriate valuation method for personal property. Mr. Miles' valuation was effective as of January 1, 2000, using sales that occurred prior to the assessment date, and verifying whether such sales needed adjustments for time, location, condition, or other factors.

7. Although there was a lack of supporting materials for the derivation of the market value for each item in Mr. Miles' report, the Board was convinced by his extensive methodology testimony that sufficient information had been gathered, and that the market approach had been properly applied. The Board was persuaded that supporting data for each and every item valued in his report would be so voluminous as to be impractical. The Board is confident that Mr. Miles' valuation estimate accurately reflects the subject property actual value as of January 1, 2000.

8. The Board concluded that the 2000 actual value of the subject business personal property should be reduced to the following, based on the market approach to value:

1005 East Woodman Road	\$1,234,209.00
<u>1025 East Woodman Road</u>	<u>\$4,354,026.00</u>
Total Value	\$5,588,235.00

ORDER:

Respondent is ordered to reduce the 2000 actual value of the subject business personal property to \$5,588,235.00.

The El Paso County Assessor is directed to change his records accordingly.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board does not make the aforementioned recommendation or result or Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

DATED and MAILED this 5th day of September, 2001.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Mark R. Linné

Mark R. Linné

Debra A. Baumbach

Debra A. Baumbach

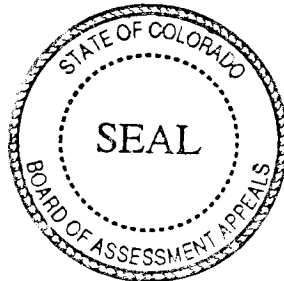
This decision was put on the record

SEP 05 2001

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Diane Von Dollen

Diane Von Dollen



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